

MINUTES  
MALIBU CITY COUNCIL  
ADJOURNED REGULAR MEETING  
NOVEMBER 13, 2001  
HUGHES AUDITORIUM  
6:30 P.M.

**CLOSED SESSION**

At 5:30 p.m., the adjourned regular meeting of the Malibu City Council convened. City Attorney Hogin announced that the purpose of the Closed Session was to discuss matters listed on the posted agenda pursuant to Government Code Sections 54956.9(a), 54956.9(b), and 54956.9(c). The City Council recessed to a closed session.

**CALL TO ORDER**

Mayor House reconvened the meeting at 6:48 p.m.

**ROLL CALL**

The following persons were recorded in attendance by the Recording Secretary:

PRESENT: Mayor Joan House, Mayor Pro Tem Jeffrey Jennings, Councilmembers Sharon Barovsky, Thomas Hasse and Ken Kearsley.

ALSO PRESENT: Katie Lichtig, Acting City Manager; Christi Hogin, City Attorney; Paul Adams, Parks and Recreation Director; Rick Morgan, City Engineer; Chuck Bergson, Public Works Director; Drew Purvis, Senior Planner; Barbara Cameron, Grant Writer; Lt. Bradstock; and Lisa Pope, City Clerk

**FLAG SALUTE**

John Harlow led the Pledge of Allegiance.

**CLOSED SESSION REPORT**

City Attorney Hogin announced that the Council met in Closed Session at 5:30 p.m. for the purpose of discussing matters listed on the posted closed session agenda as follows:

**Existing litigation per Government Code Section 54956.9 (a):**

1. Antario v. City of Malibu  
Los Angeles County Superior Court Case No. BC253990
2. City of Malibu v. California Coastal Commission  
Los Angeles County Superior Court Case No. BC230410
3. City of Malibu v. Santa Monica Mountains Conservancy (Streisand Center)  
Ventura County Superior Court Case No. CIV193900

4. Coffman v. City of Malibu  
Los Angeles County Superior Court Case No. BC246067
5. Darian v. Accent Builders et al.  
United States District Court Case No. 00-10255-FMC(JWJ)
6. Dove, et al. v. Malibu City Council, et al.  
Los Angeles County Superior Court Case No. BC254020
7. Keach v. City of Malibu  
Los Angeles County Superior Court Case No. SS009723
8. Lavine v. City of Malibu  
Los Angeles County Superior Court Case No. SS 008071
9. Malibu Township Council v. City of Malibu, et al.  
Los Angeles County Superior Court Case No. SC067214
10. Rubens v. City of Malibu  
Los Angeles County Superior Court Case No. SC060331
11. Sierra Club v. City of Malibu  
Los Angeles County Superior Court Case No. BS064912
12. Silver v. City of Malibu  
Los Angeles County Superior Court Case No. BC255025
13. Trancas Property Owners Association v. City of Malibu  
Los Angeles County Superior Court Case No. SC054684
14. Taxpayers for Livable Communities; Jay Liebig v. City of Malibu  
Los Angeles County Superior Court Case No. BC258432
15. Chicksands Properties LTD. v. City of Malibu et al.  
Los Angeles County Superior Court Case No. BS072081
16. Levenson v. City of Malibu et al.  
Los Angeles County Superior Court Case No. SC059037
17. Marine Forest Society v. California Coastal Commission Case No. 00AS00567  
(Sacramento Superior Court) (Amicus)

**Anticipated Litigation pursuant to Government Code Section 54956.9(b):**

18. Number of potential cases: 1

**Initiation of Litigation pursuant to Government Code Section 54956.9(c):**

19. Number of cases: 1

City Attorney Hogin reported that the Council discussed many of the closed session items and took no reportable action.

**APPROVAL OF AGENDA**

Mayor House announced that Item 1.A. would be continued to December 10, 2001.

MOTION Councilmember Kearsley moved and Councilmember Hasse seconded a motion to approve the agenda with Item 1.A. continued. The motion carried unanimously.

**REPORT ON POSTING OF AGENDA**

City Clerk Pope reported that the agenda for the meeting was posted on November 2, 2001, with the Amended Agenda posted on November 9, 2001.

**ITEM 1 CEREMONIAL/PRESENTATIONS**

- A. Presentation of Malibu Tile to Pat Greenwood for 10 Years of Volunteer Service to the City of Malibu

Continued upon approval of the agenda.

**ITEM 2 A. PUBLIC COMMENTS**

John Wall suggested the proposed LCP be submitted to the voters of Malibu for a referendum vote.

Marilyn Santman discussed the Taki show interview with the Mayor and City Attorney Hogin regarding the LCP. She discussed the government channel. She addressed the Council regarding the defeat of Measure K. She requested the Council place a measure similar to Measure K on the April 2002 ballot.

Georgianna McBurney discussed the Ancient Myth of Sisyphus. She addressed the Council regarding Measure K. She discussed the California Coastal Commission's

Draft LCP. She asked if the City could set up a legal defense fund to financially able the City to sue the Coastal Commission and the State of California.

Mona Loo discussed the recent election on Measure K. She thanked those who participated on their campaign. She recognized the City Councilmembers who worked in support of Measure K. She thanked the members of the steering committee.

Judy Decker presented a letter to the Council from the Point Dume Community Association regarding the Staff assessment of the Draft Coastal Plan.

John Harlow, on behalf of Lili's Café Steering Committee, stated they were willing to be part of the process to plan the next bond proposal. He stated they would not oppose a bond if it were well written. He stated open space should not be given the high priority given in the Measure K campaign. He discussed AB1602 and the lack of inclusion for Malibu. He requested Councilmember Hasse be part of the working group to put the bond together.

## **B. COUNCIL COMMENTS**

Councilmember Barovsky requested comment on Mr. Wall's proposal for a referendum on the LCP, a bond issue in April, and legal defense fund. She thanked all those who worked on the bond measure.

City Attorney Hogin discussed the idea of a referendum on the LCP. She stated she would provide information on the possibilities available to the Council. She stated a calendar of elections could be put together for a bond measure in April 2002. She stated donations could be taken into a legal defense fund. She cautioned the Council to consider that those who contribute may have an expectation to control litigation, but the Council must maintain control.

Councilmember Hasse discussed recent events he attended. He stated he was intrigued by the idea of a referendum on the LCP and requested a legal analysis. He thanked those who worked in opposition to the bond measure. He stated he did not know if the level of specificity necessary to obtain 2/3 vote was possible by January.

Councilmember Kearsley indicated support for review of the possibility of a referendum on the LCP. He discussed the Coastal Commission Draft LCP. He asked the City Attorney if a legal defense fund could be set up for the LCP. He thanked Mona Loo for her efforts on the bond campaign. He stated he would support another bond measure. He discussed the grants received by the City. He

requested the City Manager report on the grants received. He discussed reference to Point Dume in the Coastal Commission Draft LCP.

Mayor Pro Tem Jennings stated the referendum idea had been discussed by the Council. He stated AB988 was poorly thought out. He thanked the Measure K committee. He reported on the recent Land Use Subcommittee meetings. He asked when slope density would be before the Council. Acting City Manager Lichtig indicated the Planning Director was making the changes indicated by the Subcommittee and the matter would be before the Council in December.

Mayor House discussed recent events she had attended. She discussed grants received by the City. She announced bus transportation to the LCP hearing in Los Angeles on November 15, 2001. She discussed the City's efforts to resolve the issues with the LCP. She commended all the hard workers on the bond measure. She discussed the importance of acquiring land to reduce commercial development. She discussed the cost of providing Point Dume shuttle service and per rider costs. Acting City Manager Lichtig stated a display would be put up in City Hall to feature the grants received. Mayor House announced a press event regarding Ahmanson Ranch on November 14, 2001.

Councilmember Barovsky requested the Mayor clarify that the Coastal Commission had required the Point Dume shuttle. Mayor House explained that the shuttle was part of the settlement between the prior Council and the Coastal Commission.

### **ITEM 3      CONSENT CALENDAR**

**MOTION**      Councilmember Hasse moved and Councilmember Kearsley seconded a motion to approve the Consent Calendar. The motion carried unanimously.

The Consent Calendar consisted of the following items:

- A. Previously Discussed Items
- B. New Items
  - 1. Waive further reading  
Staff recommendation: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.
  - 2. Approve Warrants  
Staff recommendation: To allow and approve warrant demand numbers 17690 through 17795 listed on the register from the General Fund and direct the City Treasurer to pay out the funds to each of the claimants listed in Warrant Register No. 245 in the amount of the warrant appearing

- opposite their names, for the purposes stated on the respective demands, including payroll checks, in a total amount of \$682,182.41.
3. Re-affirm the State of Local Emergency Declared by the Director of Emergency Services on March 9, 2001 relating to the Landslide Road Failure at Corral Canyon  
Staff recommendation: Re-affirm the State of Local Emergency by minute order.
  4. Denial of Claim for Damages filed by Doreen Vasquez  
Staff recommendation: Deny the claim filed by Doreen Vasquez.
  5. Approval of Minutes  
Staff recommendation: Approve City Council meeting minutes for the meetings held on October 8, October 15 (Special), October 22, and October 24 (Quarterly), 2001.
  6. Parcel Map No. 26048 (PCH Tyler Assoc. - PCH w/o John Tyler), Approval of Final Map for Recordation  
Staff recommendation: Adopt Resolution No. 01-63 approving Final Parcel Map No. 26048 for recordation.
  7. Financial Assistance Program for Recreation Programs (*Continued from October 22, 2001*)  
Staff recommendation: Approve the Financial Assistance Program to allow donations to be accepted and utilized by the Parks and Recreation Department for the purpose of providing financial assistance to those who cannot afford to participate in any of the Department's recreation programs.
  8. Request for Letter of Support to the California Department of Parks and Recreation for a Malibu Surf Museum to be located on the Malibu Pier  
Staff recommendation: Authorize a letter to California Department of Parks and Recreation to be prepared in support of a Malibu Surf Museum on or adjacent to the Malibu Pier for the Mayor's signature.
  9. Request for Proposals to Provide Filtration/Disinfection Equipment and Design of Treatment Facilities on the Civic Center and Cross Creek Storm Drains  
Staff recommendation: Approve the Request for Proposals and authorize City staff to solicit proposals to provide equipment and design of filtration and disinfection facilities on the Civic Center and Cross Creek Storm Drains; and adopt Resolution No. 01-64 naming the Acting City Manager or designee as the City's Authorized Representatives for the Clean Beaches Initiative Program grant from the State Water Resources Control Board.
  10. Completion of Contract and Acceptance of Work, Curb Ramp Installation, CIP 01-02  
Staff recommendation: Accept the work performed by Damon Const. Co. on the Curb Ramp Installation project (cip 01-02) as complete and

authorize the Public Works Director to record the notice of completion and to release all surety agreements and bonds.

11. Chamber of Commerce Holiday Banner Promotion

Staff recommendation: Authorize payment of \$250 to the Malibu Chamber of Commerce for the Annual Holiday Banner Promotion with attachment of red, white and blue streamers to signify remembrance of the tragedy of September.

12. Extension of Contract for Grants Coordinator

Staff recommendation: Appropriate \$55,000 of General Funds (\$50,000 for contract services and \$5,000 for reimbursable materials and copies) and direct the City Manager to extend the professional services agreement with Barbara Cameron consistent with the updated scope of work.

13. Request for Proposal for Economic Element and Commercial / Office Supply and Demand Studies

Staff recommendation: Approve the Request for Proposal and direct staff to send the RFP to qualified firms or individuals.

14. Resolution No. 01-66 of the City Council of the City of Malibu reaffirming the City's commitment to work collaboratively with the California Coastal Commission on developing the Malibu Local Coastal Plan which is consistent with the City's land use policies and implements the Coastal Act

Staff recommendation: Adopt Resolution No. 01-66 of the City Council of the City of Malibu reaffirming the City's commitment to work collaboratively with the California Coastal Commission on developing the Malibu Local Coastal Plan which is consistent with the City's land use policies and implements the Coastal Act.

**ITEM 4            ORDINANCES AND PUBLIC HEARINGS**

A. Engineering and Traffic Survey

Staff recommendation: Introduce on first reading Ordinance No. 234 amending Section 3.2.07 of the Malibu Municipal Code establishing prima facie speed limits on City streets and direct the City Clerk to place the item on the next City Council meeting to consider second reading and adoption.

Public Works Director Bergson presented the staff report.

Ryan Embree, Public Safety Commission, discussed the Commission hearing on the matter. He stated the Commission suggested retaining the speed on Portshhead. He discussed the speed on Cross Creek Road. He discussed enforcement of speed using radar.

Councilmember Hasse asked if the speed limits had to reflect the speed survey results. City Attorney Hogin explained that the survey had to be conducted to ensure the speed limits were appropriate in order to be enforced by radar. City Attorney Hogin explained that traffic safety in the City was governed by the Vehicle Code. Councilmember Hasse expressed concern with speeds on Dume Drive and Civic Center Way.

Mayor Pro Tem Jennings asked about the Public Safety Commission's suggested speed on Portshead. Mr. Embree explained that the Commission, on a 3-2 vote, suggested retaining the speed on Portshead at 30 miles per hour. Public Works Director Bergson explained why staff was recommending 25 miles per hour on Portshead. Mayor Pro Tem Jennings suggested signs be posted on Portshead indicating the speed limit. He discussed the speed limits on Merritt Drive.

Mayor House asked about the proposed speed limit on Cross Creek Road. Public Works Director Bergson explained that it met the requirements of a business district and prima facie speed limit of 25 miles per hour. Mayor House expressed concern about speed limits on residential streets.

**MOTION** Councilmember Kearsley moved and Mayor Pro Tem Jennings seconded a motion to introduce on first reading Ordinance No. 234 amending Section 3.2.07 of the Malibu Municipal Code establishing prima facie speed limits on City streets and to direct the City Clerk to place the item on the next City Council meeting to consider second reading and adoption. The question was called and the motion carried unanimously.

**ITEM 5 OLD BUSINESS**

None.

**ITEM 6 NEW BUSINESS**

A. Proposed Policy for Telecommunication and Wireless Communication Facilities in Residential Rights-of-Way

Staff Recommendation: Approve the guidelines and procedures for the placement of telecommunication facilities in the residential rights-of-way areas.

Mayor House indicated there was a request for continuance.

Dean Brown, Sprint PCS, explained that new facilities were necessary to enhance service. He presented photographs of various antennae sites and types. He stated there were significant benefits to improved infrastructure.



Councilmember Hasse suggested referring the matter to the Land Use Subcommittee or Planning Commission for recommendation to the Council.

Councilmember Barovsky asked if it was necessary to take public testimony. City Attorney Hogin stated the Council could continue the matter. Councilmember Barovsky suggested taking public testimony.

Mayor Pro Tem Jennings stated AT&T had requested a continuance. He suggested concerns be forwarded to staff. He requested proposals be submitted to camouflage the utility boxes. He suggested bonds be posted to require removal of inactive sites. Acting City Manager Lichtig explained that staff met with representatives of Sprint PCS, had conversations with different wireless and wired utilities, and the matter was before the Public Works Commission. She explained that the guidelines before the Council were essentially the same standards recommended by Planning Commission for private property.

Mark Olsen, Southern California Edison, discussed their involvement in telecommunications. He stated it was necessary to have efficient right of ways in the City. He requested Southern California Edison be included in the process.

John Docken, representing Verizon, expressed concern regarding the proposed guidelines. He stated they had the right to legally use rights-of-ways. He stated the proposed requirements were not legally allowed under the 1996 Telecommunications Act. He stated they had not received adequate notice of the hearing.

John Flynn, representing Sprint PCS, presented a letter from Adan Madrid, detailing the basis for their legal objections. He stated the basic problem was the City's attempt to increase its discretion of encroachment over right of way.

Marshall Thompson, Malibu Park Homeowners Association, submitted a letter to the Council indicating their concerns with installation of utility boxes. He expressed concern regarding public safety with the reduction of right of ways.

Ryan Embree discussed wireless technology. He discussed the importance of communication during a disaster in Malibu. He discussed regulation of the appearance of transmission poles and boxes. He suggested the carriers propose alternative designs. He suggested Malibu consider duration and sizing of battery backup power for the facilities.

Judy Decker, Point Dume HOA, expressed concern about safety hazards created by utility boxes in right of ways. She asked the dimensions of the boxes and concrete walls proposed by Sprint. She suggested underground utilities be constructed.

John Goodwin presented photographs of existing facilities. He discussed the appearance of the telecommunication facilities. He requested the Council consider the full impact of potential sites.

Acting City Manager Lichtig recommended continuing the matter to allow staff to work with members of the utility.

Mayor Pro Tem Jennings suggested the wireless providers contact the City Manager to meet with staff. He suggested attorneys provide specific objections to specific guidelines. He discussed the City's ultimate goal to underground utilities. He suggested staff meet with the wireless companies to discuss the matter.

Councilmember Kearsley suggested underground vaulting be used as required in other communities.

Councilmember Barovsky suggested specific legal issues be presented. She stated the existing sites were not visually appealing. She discussed hazardous situations caused by vision impairment created by the utility boxes.

CONSENSUS By consensus, the Council referred the matter to staff.

B. Approval of a Request for Proposal for a Needs Assessment of Law Enforcement Services Provided in the City of Malibu by the Los Angeles County Sheriff's Department

Staff recommendation: Consider whether to seek a needs assessment of law enforcement services provided in Malibu by the Los Angeles County Sheriff's Department and authorize the issuance of the Request for Proposal (RFP) if appropriate.

Acting City Manager Lichtig presented the staff report.

Mayor Pro Tem Jennings stated the Administration and Finance Subcommittee felt it was a good idea to conduct a needs assessment.

Mayor House indicated support for an RFP for a needs assessment.

**MOTION** Councilmember Barovsky moved and Mayor Pro Tem Jennings seconded a motion to seek a needs assessment of law enforcement services provided in Malibu by the Los Angeles County Sheriff's Department and authorize the issuance of the Request for Proposal (RFP) if appropriate. The question was called and the motion carried unanimously.

**ITEM 7 COUNCIL ITEMS**

None.

**ADJOURN** At 8:50 p.m., Councilmember Kearsley moved and Mayor Pro Tem Jennings seconded a motion to adjourn. The motion carried unanimously.

Approved and adopted by the City Council of the  
City of Malibu on November 26, 2001.

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JOAN HOUSE, Mayor

ATTEST:

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LISA POPE, City Clerk  
(seal)